



Submission

Pregnancy and Return to Work Review

Submitted January 2013

1 Public Service Association Coverage

The Public Service Association (PSA) is a registered union under the Industrial Relations Act 1996, representing New South Wales public sector employees and general staff in universities. The union represents approximately 41,000 members spread over 4,000 worksites.

The PSA's membership includes:

- People who work for NSW government departments
- Correctional Officers
- Juvenile Justice Officers
- Sheriffs
- School and administrative and support staff in NSW public schools
- People who work in NSW budget funded agencies
- General staff in NSW universities
- General staff in TAFE
- Non-uniformed staff in the Police Service
- Some classes of employees in statutory authorities and State Owned Corporations such as Landcom, Pillar Administration electricity generators, Roads and Traffic Authority and many others.

2 Introduction

Most respondents to the PSA survey (nearly 80%) reported having experienced some form of discrimination in relation to their pregnancy.

The qualitative data revealed that the most pressing concern for women appears to be difficulties securing flexible working arrangements when returning to work.

This is mirrored in the nature of the cases dealt with by the Women's Unit at the PSA.

Most members of the PSA are covered by the Crown Employees (Public Service conditions of Employment) Award 2009. This award gives public servants the right to request flexible working arrangements or part time work. However, the employer is under no obligation to accommodate this. The request can be denied on reasonable business grounds, and this is not infrequently the case. There is no time limit placed on employers to reply to requests and this often creates difficulties.

3 Survey Results (quantitative data)

In December 2013, an electronic survey was distributed to all female members of the PSA. Of the 43,000 PSA members, approximately 60% are female. 713 responses were received.

This survey was both qualitative and quantitative. The survey results were as follows:

- 77% of respondents indicated that that had they had missed out on an opportunity for promotion while pregnant.
- 71% of respondents indicated they had missed out on training or developmental opportunities whilst pregnant.
- 79% of respondents had been subjected to inappropriate comments by supervisors while pregnant.

Respondents were also given an opportunity to share qualitative information in relation to their experiences of discrimination on the basis of pregnancy, to address issues raised in the quantitative section of the survey, or to share experiences that were not raised in the quantitative section due to the terms of reference.

The qualitative responses provided rich data which illustrate the challenges of pregnant women who are attempting to enter the workforce, or remain in the workforce.

Experiences of discrimination can be broadly categorised as follows: Denial of training, promotional opportunities or acting up opportunities; Downgrading of tasks; Inability to access appropriate flexible working arrangements when returning to work; Difficulty renewing contract; No appropriate facilities or reasonable adjustment; Being removed from normal work location; Being sacked; Being 'squeezed out' or having position downgraded, not considered for positions in restructures; Stereotyping; Having requests for leave denied; Inappropriate comments and actions; Denial of information; Harassment; Difficulty obtaining time off work for appointments; Other women's stories about witnessing pregnancy discrimination in the workplace – many of the respondents had not experienced discrimination in relation to pregnancy themselves, and indicated this in the qualitative responses, but responded to the request for qualitative information by clarifying that they had witnessed other women in the workplace being subjected to discrimination due to pregnancy. This may be indicative that the actual amount of discrimination in the workplace that pregnant women are subjected to is under represented by the quantitative data (above) obtained in this survey.

4 Survey Results (qualitative data)

A summary of the qualitative responses:

Denial of training, promotional opportunities or acting up opportunities

"I was told I had no choice but to turn down a job offer because I was on maternity leave, even though there were other candidates on an eligibility list who could have filled the vacancy on a temporary basis."

"I am discriminated against on a regular basis due to my part time status ... I regularly miss opportunities that full time officers get."

“I was told that I would never hold a senior position during pregnancy and that having children would hinder my career by my then manager.”

“Loss of overtime opportunities, called “the part timer.”

“[I was] told I would not be able to apply for temporary positions or higher duties ... unless I returned to work full time”.

“As I now work part time I am unable to temporarily act in a higher position and therefore gain greater skills for later promotion.”

“I have missed out on training and promotional opportunities because I have worked part time whilst my child was young.”

“I have come back to work part-time due to childcare obligations and have not been considered for a number of higher duties positions I have applied for on the basis of working part-time, even when I offered to work from home or on weekends...I have been by far the most qualified applicant [and] have previously worked [at the higher grade]”.

“There is nil opportunity for higher duties since returning to work on part-time basis. I am aware of other staff in the public sector that have obtained agreement to act in higher duties and job share. I was asked to act in higher duties positions up to maternity leave, but not since then”.

“I was overlooked for opportunities because I was pregnant and going off on maternity leave”.

“I was top of an eligibility list that was to last for 6 months but missed the initial position due to a transfer. When the transferee left after 5 months I was not offered the position. When I queried it I was told it was because they wanted someone “full time”. I was full time substantive but part time return to work/Parental LWOP at the time”.

“When it became known that I was pregnant, opportunities that had previously been discussed as being available, which would have benefited my career development, were suddenly no longer on offer. I am now faced with returning to work at a lower pay grade, after over eight years of service and dedication to the institution that I work for”.

“I was declined a promotional position as I was on part time maternity leave after birth of baby even though I would be back full time within 3 months.”

“My career was moving forward prior to having a child,. It's only in the last year that I have been getting opportunities again for relieving. This is despite qualifying in 2003 with a Commerce degree”.

“I was not able to apply for higher duties due to part time hours following a return to work after maternity leave”.

“I am aware of discussions of myself not being offered a permanent management position due to being on maternity leave, and therefore not being in the management role for a consecutive period of time”.

“I've found that promotion opportunities dry up for anyone who has returned from pregnancy and works part time”.

“... my family commitments now ... prevent me from applying for promotions. As I work part-time there are limited roles within my department ... This is disappointing, as I am still career focused and I believe that overall I am a better worker now than before I started a family. I am more organised and use my time more effectively - largely because I have too.”

“[I was] overlooked for opportunities to act up in higher positions as [I was] only a part time worker. Also not told about opportunities to attend training sessions/ career development sessions and go to interstate meetings.”

“On return to work part-time, [I found management] prefer full-time employees for promotion and opportunities.. [I was] informed management would look at [my] application only if I went to full time.”

“[My] promotion was taken off me when I extended my maternity leave.”

“Going for a promotion is out of the question for part time working mothers, therefore you don't even bother applying.”

Downgrading of tasks

“Working for an emergency service often allows the opportunity to assist in the management of disasters outside of one's normal business location – this opportunity was not afforded to me during my pregnancy (because of the pregnancy my supervisor was not prepared to let me travel.”

“I was removed from my usual place of work against my doctor's orders, given menial and degrading work tasks (which included sitting on the floor to number files). My position was deleted. Now I am forced backwards and my career path and family are affected”.

“I was given less meaningful work on my return, as I returned on part time basis.”

“Returning to work part time after the birth of my baby, I had difficulty convincing my manager to give me any meaningful work or responsibility similar to the work I had been doing prior to my pregnancy. At best I was offered finish off jobs, I call it 'busy work' - work that had been started by others and left because it was no longer relevant / too difficult / going nowhere. This seemed to be a common problem at the time for women returning to work part time after pregnancy. It took me several years to resolve.”

Inability to access appropriate flexible working arrangements when returning to work

"I requested part time on return to work, and was told part time is "no fucking use to me" by my manager".

"I was told that my part time work agreement was going to be terminated by my Centre's General Manager. I informed him that I was taking the issue to senior management. They stepped in and resolved it but it was still an ongoing issue at a local level. Senior management had to intervene again. I have ongoing personal emotional issues due to the bullying and harassment that I have had to endure unnecessarily."

"I have found difficulties in returning to work for the number of days which I chose and have child care for. I have been in constant negotiations with my manager over the number of days which I return to work for. I have been offered the number of days that I want at another office from another office, but the Manager at my office would not let me transfer. I have the number of days that I want to work now, for one year, but I know that I will be in the same situation next year. I am currently looking for another job and I will be leaving my job as soon as I find a suitable position. I am not looking for a promotion, I just want a job that allows me to continue to look after my children. Equality in promotions and pay is very important, but there are also women who just want to be able to choose how many days that they work and be able to keep their job. The laws do not support this and it is up to the individual manager. When there are differences between offices, but no way of moving to offices that may be more supportive, this seems unfair."

"Not as a result of my pregnancy, but when my son started school I requested to work school hours as there was no spot in either before or after school care. My director at the time told me, bad luck that I had to return to work full time, no ifs or buts."

"I wanted to work from home for two days while going through IVF but my request was denied, despite another team member being able to work from home ... following an accident. My manager made a very odd comment about IVF ... No information regarding long term acting higher positions were sent to me while I was on leave, nor any information about restructures or mergers which saw my unit become part of a larger division. A few months after my return part-time, higher positions were filled It was made clear to me that I would not even be considered for higher positions until I was willing to return full-time. No job share would be considered."

"The real issue for me is around access to part time work after children commence school. The Award is clear about this whilst the child is under school age but the position is less clear - and more arbitrary - once your child starts school and any mum or dad who wants to work part time in the early school years is really subject to the good will of their employer... I also found that access to training and other opportunities was more limited because of working part time - the underlying feeling you have is that you are not a 'real' worker if you do less than full time. I have been fortunate to have a supportive manager who was committed to making the part time arrangements work but other managers are less flexible and supportive. My husband had major difficulties when trying to work part time because his manager was less

supportive and because working part time is seen to be the woman's role, not the man's."

"Unfairness in allocation of shifts: I was not given consideration as a pregnant person yet others with injuries [were given consideration in shift allocations]."
"I was forced to relinquish my full-time position before returning to work after my first child. I am now trying to negotiate school hours and it is being met with resistance."

"On return to work I came back part time. I felt pressure to return to full time hours because of workloads. I felt pressure to stop breast feeding because other staff members complained to management about my time away from my desk."

"Additional loo breaks frowned on, time off for medical appointment frowned on. There was pressure applied to return to work early (after three months) and full time."

"I was not able to work part-time upon return from maternity leave - reason given was that there were no spare administration officers."

"(The) system promotes family friendly, however in practice is not flexible to the needs of childcare arrangements ... I was not supported with (flexible work) options ... which resulted in my doctor recommending early maternity leave due to the work environment impacting on my pregnancy. At no stage did my manager take the time to consult or help me look at options."

"On return to work ... I had to argue to my direct supervisor why I wasn't returning full time... if you complain you know your part time status maybe restructured out. A fact of life ..."

"Recently I applied for and won a position ... I accepted the position and I was then told that they could not accommodate me working part time. I have 2 children aged almost 2 and almost 5, and I am currently working for (the same department) part time 3 days per week in a Grade 7/8 position. Since my job will be deleted in May 2014, I was prepared to accept the 5/6 position closer to home. I was told that I could only accept the position full time. When I expressed my disappointment that a State Government Department would not accommodate a highly qualified woman with caring responsibilities, I was told that I would have access to part time work only if I had previously been working in that position, not when accepting a new job. I informed them that I was currently working for the same department 3 days per week due to my caring ... I think that all government departments should try to accommodate women with caring responsibilities and acknowledge the skills and experience they have ... and appreciate that the part time status is for a short period of time. I had previously thought that State Government Departments were committed to supporting women who worked and maintained caring responsibilities either for children or others ..."

"Lack of support (no communication from managers) regarding return to work options."

“My pre-approved return to work plans were not honoured, causing significant distress and financial hardship...if I wanted to pursue the matter it would cost ... \$11,000.00 to go to the tribunal, which I could not afford”.

“... My roster often changes with little notice which impacts on my family as child care is booked in for particular days”.

“[I was] bullied about returning back to work part time”.

“The most difficult challenge is the return to work ... part-time, as often managers are unsure how to manage part-time workers to enable them to continue to do meaningful work at a level appropriate to their grade and as comparable as possible (in terms of level of work and responsibility) to what they were doing prior to [being] part-time”.

“I had to change positions and drop a grade as I wanted to come back part-time”.

“I was given substandard work when I return to work. [There were concerns stated that] I might unable to meet my directors expectation ... working part [they later tried] to degrade me as a part of [a restructure] ... I was really disappointed with the ... so called policies and rules around welcoming women back to work after maternity leave”.

“[When I] return[ed] to work I was told I must return full time. After contacting the union, my position was deleted. All employees were told that my position was going to be deleted but I was not told until a few days after. Horrible experience”.

“Though I have the right to work part time until my child reaches school age, when I went on maternity leave, rather than create a temporary position, my supervisor decided to send different staff to my location each week. I have had to listen to other staff complain about having to travel out here to work in my place. Due to staff shortages I have felt I had to return to work full time before Christmas. I'm upset that I have to return to work full time as I would have much preferred to spend time with my child. We also lack child care facilities in our town”.

“My manager advised me I was unable to change my intended return to work days following maternity leave - I was unable to find childcare for the number of days I had initially intended to return. I later found this to be incorrect, but not until it was too late”.

“When I returned to work from Maternity Leave I was told that my job had been reclassified and that I was no longer a roster officer, but a roster assist (I had previous HR experience). I had also requested to work full time hours over 4 days in lieu of 5 due to childcare arrangements and this was refused - so I had to work the 5 days a week”.

“Not as a result of my pregnancies but definitely after I had returned to work”.

“Whilst I did not experience any discrimination during my pregnancy, this was not the case during my parental leave. During my 20 months of leave, my temporary position

ceased and I was not advised of opportunities to apply for. Subsequently, I returned to work as a Grade 7/8 position (after occupying a temporary Grade 9/10 position for 3 years and during that time acted in a Grade 11/12 position for 6 weeks). Further, my request to return to work 2 days per week due to lack of available childcare was initially approved however, the request was later denied. I contacted my new Director to discuss the reasons for her decision and she advised that it is not unreasonable to expect me to return to work at least 3 days per week given I am occupying a full time position. Despite having 6 months to prepare for my return to work, there appeared to be very little thought and planning put into my return. I was allocated a desk to share with another part time employee. I was not provided any drawer space or storage space and was not able to unpack my resources”.

“I am currently on maternity leave. I tried to negotiate returning to work earlier this year but was unsuccessful as my employer had too many stipulations. It was their way or nothing, so I've stayed on leave”

“I returned full time because it was made very clear that I would not be given the same or equal opportunities as full time employees if I was part time. Women have to choose which they want. As recent as this week I was told that a young woman returning from Mat Leave "should be lucky she has a position at all". This young woman was seen as a future leader and had been mentored until she had a family. Now she is being shafted. Equality until you are a mother juggling family and work and only again once the children are older. My advice is to get to the level you wish to achieve before having children or have them early and don't expect anything until the kids are older”.

”Human Resources declined my request in relation to shift preference and reducing hours despite the support of management”.

“A lack of meaningful work upon returning to work part-time”.

“I felt extremely pressured by my work place to return from maternity leave and increase my working days. This was due to the fact they did not back fill another position. Essentially I was doing double my workload on half the amount of time, on part-time hours. I have increased my working days”.

“When I returned to work I was unable to negotiate a career development opportunity and appropriate work hours”.

“I wanted to return to work early as my circumstances had changed and we desperately needed money, my request for certain hours and days was met with a flat NO and I was advised to go to Centrelink for money”.

“I have lost opportunities as the roles needed someone full time - not on part time return to work arrangements”.

“My experience, and those of most other mothers I've spoken to, is not so much the pregnancy but around working part-time after the birth, and perceptions about what my focus is (ie that I don't care about my career or development opportunities

because I have children), and opportunities for career or personal development being given to full time, more junior staff. Discrimination is often subtle eg from a director: 'I have reservations about approving your study leave because you are already out of the office so often given you work 3 days a week...you will find it difficult to form an anchor point with your work'.

"I was asked to change my days off and told I could only work standard hours and not have flex time available to me as I was part time".

"Pressure to return to work fulltime early in order to secure promotion."

"I have been prevented from returning to my substantive position due to my returning to work part-time after having my children, and this has left me in a position where I am not able to perform the normal duties of my work role and further develop my skills in order to be able to be considered for more senior roles which are now being advertised due to a restructure. I am also left in a position where I am uncertain of my rights regarding my substantive position and my future employment in this position that I have held for many years, resulting in significant insecurity in both my work role and my responsibilities to my infant children and for their care in the future"

"I am not able to stay in my current position if i work three days per week."

"The expectation to continue to work extra hours...[Management] Continuing not to address a lack of staff which impacted on expectations to continue to work extra hours ...[this] increased stress."

"When I was returning from maternity leave, I was told that if I applied for part time work, I was able to do this until the youngest turned five. When I applied I was under the impression that it would not be a problem and that the employer would have to have a good business reason if they denied my request. [My application] was rejected by management. They said it was "too hard to roster" (even though we use casuals all the time), not possible because of holidays and leave (which would be pro-rata) and to keep up with information (we rotate staff so they already use emails to keep everyone updated, all information is either on the internet or knowledge base). I found out that as I was the first one in my area (in 12 years) to have babies and apply for part time work, that [there was fear] I could set a precedent if other workers in my area might want to do the same. They didn't want me part time. I [put up a] fight this and went to the union and equity and diversity and ... finally they let me do it. I hate how the university made me feel especially after 12 years of service here."

"The discrimination has occurred when returning to work part-time (formerly full-time). The organisation 'says' it supports part-time work arrangements but day-to-day there is a failure to support part-time workers."

"I was told that I was unable to have set or restricted shifts when returning to work and as a result am regularly forced to work 12 hours overnight and then take care of my children during the day."

“I experienced discrimination on my return to work. My employer would not negotiate hours/days with me. I was forced to return to a 12 hour rotating roster day and night. I requested to have set days and still work full time in order to fit in with childcare. This was denied.”

“Upon my return to work, I was not given the same grade position that I had acted up in, at that point in time, for over four years, despite me offering to change days and also shift start times. Also, despite being in the lower grade position, I wasn't given the days / shifts that I requested. I offered four options, and none of these were 'suitable'.”

“On returning to work part time they did not 'backfill' my position but rather used the three days that I wasn't there as a cost saving. This resulted in a deficit of workers for my supervisor, stress in the section and guilt on my part. Part time parents should not be used as cost savings, especially in the public service.”

“Inability to reduce work days/hours and/or [change] starting/finishing times due to perceived workload.”

Difficulty renewing contract

“I was on an ongoing temporary contract that had been consistently renewed. Whilst on maternity leave, my contract was ended and not re-instated for 2 weeks, forcing me to return to work earlier than expected. I have since gained a permanent position [at] a lower grade ... and have not received an opportunity for promotion since”.

“After eight years of temporary contract renewals, my contract ended during my maternity leave.”

“As I was not a permanent employee when pregnant, my contract expired while on maternity leave. I returned to work when my child was approximately 6 months old on a new contract. However, as there was a break in my employment, I lost my "permanent temp" status.”

“I told my manager I was pregnant and was told two weeks later my contract would not be renewed.”

No appropriate facilities or reasonable adjustment

“Lack of facilities for expressing breast milk – I had to use toilets or the first aid room (not always available).”

“I suffered from significant morning ...the toilets were outside the office in the public area at the other end of the building which made it impossible for me to be at work. I ended up having to take sick leave”.

“I had to express milk in the toilets as there was nowhere else I could do it.”

“Limited to places where you can work and I was sent to different areas to work because of a lack of facilities for pregnant females”

“No assistance offered when required lifting heavy files”

Being removed from normal work location

“I was told that I had to be moved from my work location”.

“I was not returned to my substantive position post pregnancy.”

Being sacked

“After advising I was pregnant I was told I was not suitable for the position and dismissed. I was then required to train a person prior to cessation”.

“My employer has said they won't address if and where I have a position until I intend to return from maternity leave. This has left me wondering about my job security. I am a permanent employee.”

“I lost my job”

“I wasn't given the opportunity to return to the job that I was doing before I went on maternity leave.”

“I was working in a restaurant and asked to leave as "customers didn't like being served by pregnant waiter.”

Being 'squeezed out' or having position downgraded, not considered for positions in restructures

“I was on maternity leave while the restructure took place and wasn't completely sure of everything that took place and was only able to apply for 1 position in the restructure. While not being considered for a direct match for a position.”

“When I tried to return to work I was told I no longer had a position and that I would have to return as a casual employee. I had to fight for 10 months to get my job back and received no compensation. It was only when the union stepped in that my position was returned.”

“I was rejected from many jobs at the interview level when they found out I was pregnant....."Sorry the position has been filled..." but I was there for the interview that had only been advertised the week prior - they said it only once they saw my bump.”

“I was given conflicting information by HR which resulted in my position being "swapped" without my knowledge or consent. This "swap" resulted in my job being deleted.”

“When there was a restructure during my maternity leave in 2004/05, I was not given a position in the branch I belonged to because the Director did not want any part-time staff. I became excess and was moved to another Branch.”

“Being overlooked on the overtime list.”

“As a result of a restructure during my pregnancy and maternity leave, I only secured a position which was a level lower to my position in the old structure. At 7.5 months pregnant, I applied for and was interviewed for positions at my level for which I was as qualified as the other applicants. I was unsuccessful. Normally, employees who drop a pay level in a restructure receive 12 months maintenance salary. As I was on maternity leave, however, I only received 6 months maintenance salary”.

“I missed out on re employment during a restructure after the birth of my baby with no sufficient reason”.

“I was told I don't have any guarantee of returning to work after maternity leave as it will depend on vacancies at the time”.

“I lost my position in one of our teams and was moved to the other team.”

“A restructure was occurring while I was on maternity leave. I was assured that I would be kept informed of changes to my positions location and would have a right of reply before sign off to changes. This did not happen.”

“Due to my part-time status (4 days a week) I have found it difficult to secure (acting up) roles since my return.”

“A lack of transfer opportunities”.

“I was told that departmental policy was that I could not be guaranteed a return to the position I had held prior to maternity leave”.

“I went for a promotion and got the job.. I went on maternity leave and the job was re advertised. I was not made aware of it until the last minute. I did not go for the job and lost my position”.

“Although providing the three days I would be able to work each week a year in advanced I was then pressured to change these as the temp covering my other days wanted to work the days I was working. I was removed from my office to allow the temp to have the office and was told that the temp was preferred as she was a similar age to all of the other staff so 'fitted in better'. Since returning to work part time until my child starts school I have not been allowed to apply for any secondments as I am not working full-time which has impacted on my professional development.”

“While I was on 12 months maternity leave, agency staff were employed to fill my role, upon my return, initially part-time, this person was kept on, as it was decided to split my position in half. Relieving opportunities that were previously available to me were then given to the temporary person. A permanent position was created for this person from half of my previous role. These tasks did not return to me even after I returned full time meaning that some technical skills/knowledge is now absent in my role. At the time, I did not feel that I was able to raise this issue as I needed the ability to work part time and felt like this might be taken from me if I spoke up. With

new management, having not witnessed my previous performance, it now means that they are not familiar with my skills, qualifications and experience. Therefore I am not considered for any new opportunities.”

“After returning from maternity leave I was asked to move to another office (further from home) to a job that was a demotion.”

Stereotyping

“My supervisor has commented on a number of occasions that having time off when pregnant affects you doing a good job”!

“Being given limited hours because I ‘may get tired’”

“I was not assigned more high profile tasks or regional tasks on the (false) assumption that I would not be interested in them due to family commitments.”

Having requests for leave denied

“I returned to work when my daughter was 3 months old and then found I needed more time off. When I requested further LWOP my request was declined and I had to resign”.

Inappropriate comments and actions

“A senior staff member commented to me that it was inappropriate for me to be acting in a higher role while pregnant as it would be 'too stressful' for me.”

“Was told by a human resources person that I was becoming a "liability" due to having my third child.”

“I have heard comments from staff members too that think it "gross" when a woman expresses her milk at work.”

“After returning from my pregnancy ... I was approached by a male staff member saying that I knew “how to stuff things up by returning to work and making it difficult” for the male person doing my role whilst on leave ... In a second incident another male staff member told me I knew “how to use the system”. I did find it funny when that gentleman was happily telling staff that he was going to be a grandfather. I asked him if his daughter was going to abuse the system.”

“Another staff member criticizing me as “probably being like all women who will get pregnant and want part time work, leaving others to take the load.”

“Inappropriate comments from male colleagues upon return from leave, such as “are you suffering post maternity stupidity”?

“When I returned to work part-time ... after maternity leave, my manager would regularly make comments during meetings such as "If you were here more often, we might finish this project on time". It singled me out and made me feel as though I wasn't pulling my weight, even though I was working long hours ... to get as much work done as I could.”

“I was harassed by my boss who told staff she was hoping I would miscarry because I would no longer be able to work 70 hour weeks during the pregnancy and after the baby was born. My boss sent a letter to my husband stating she was disappointed in my work output (as I could no longer work 70 hours a week while pregnant). The boss excluded me from certain management meetings to make it look like I was incompetent to the other managers”.

“When I applied for a new position after I had my last child, I was asked in the interview what child care arrangements I had, and how I would be able to work with young children. My husband has never been asked questions like this in an interview”.

“When talking about returning to work a manager said "you're not going to have any more are you”.

“During all three pregnancies I worked but was treated like I had some illness because I was pregnant. I would consistently remind co-workers and managers that I'm pregnant, not injured and not sick. I would also have to remind them that I could do normal things just like everyone else and that I knew what my limitations were because of the pregnancy. I got sick of reminding people that I was capable of doing my job. Work would be planned around me and I was often not included in discussions because I was pregnant. I got sick of hearing "Oh no don't go and see her, she pregnant - see someone else about it”.

“I was treated differently and felt uncomfortable whilst at work”.

“Negative comments about the difficulty of working with part time workers”

“Comments by colleagues like: "why can't she just leave”.

“I was repeatedly spoken with about the amount of time I spent going to the toilet during the work day. I eventually provided a medical certificate to explain the reason the need for me to go to the toilet increased with being pregnant.”

“When returning to work my employer tried to not give me back the management role I held prior to commencing maternity leave and to demote me to a lower graded position. I was told to warm my feet up under the desk and learn about where the business had progressed to since being on leave”.

“I have been told I had to choose between having children and a career. As I chose to have children I shouldn't affect the workplace by requesting part time hours or utilising flexible work hours as it affects other workers and they need to pick up my workload, which is unfair”.

Denial of information

“I do not know if I missed out, unless there is an option of receiving the same access to information at home as there is at work. Any sort of absence be it long term leave, pregnancy, carers leave etc would result in missing out on opportunities”

“I was not fully briefed on workplace information as the staff and boss felt I didn't need to know as I was going on maternity leave”.

“I was not included in forward planning exercises due to the fact that I would not be there to be part of the implementation”.

Harassment

“I had time off because my son was born with complications. Most of my time was supported with medical certificates. I was placed on a performance plan due to my attendance”.

“When negotiating my return to work days and hours, I experienced discrimination by my manager in the form of bullying and unprofessional behaviour during the negotiations”.

Difficulty obtaining time off work for appointments

“Comments were made by [my] supervisor and fellow workers [about] the amount of time off I had to attend medical check-ups”.

Other women's stories about witnessing pregnancy discrimination in the workplace

“I have seen others being discriminated [against] and was advised when I was pregnant to keep the news to myself as long as possible”.

“I have witnessed pregnant women being made redundant over other candidates as they were on maternity leave at the time.”

“... employer ... deleted staff positions of all staff on maternity leave, [and] refused to backfill [positions]. [This] caused ... resentment and ... stress on the few left [this] damaged morale”.

“I have not been pregnant. But I have witnessed other colleagues find return to work arrangements following maternity leave, complex, uncompromising and inflexible. It is common for directors to say 'that role cannot be done part time therefore take more unpaid leave'. Working from home arrangements should be considered, as should 5 day fortnight arrangements”

“My daughter is going through this now . She has just had 12 months off. Her son is 9 months old and she has to return to work full time or they will cut her hours and she will lose her full time position. She is left with no option but to place him in day care”.

“I have not yet been pregnant, however whilst working in several NSW government departments I have witnessed colleagues being discriminated against as a result of being pregnant and a mum and being harassed and manipulated in terms of their employment security if they did not get all work tasks done on demand. This is a very big issue and due to government restructures it is very difficult to be able to have full maternity leave options implemented and come back part time. Many women are told by HR that they cannot come back part time as there is not the work for them”.

5 Case Study

This case study has been selected from the cases dealt with by the PSA’s Women’s Industrial Officer. It has been selected because it is typical of the experiences of women who seek the support of the union for problems experienced in relation to pregnancy. It provides insight into the experiences of pregnant women in the public sector workforce. The case spans three pregnancies and ten years.

Ms S works in a customer service role in a NSW government department. This role involves shift work. She is employed 20 hours per week permanent part time.

Following a period of parental leave after the birth of her second child, in 2004, Ms S requested a flexible working agreement. She agreed to work up to 31 hours per week, but requested a set roster of four nominated days which would correlate with available child care. Ms S’s partner also works shift work on a seven day rotating roster and she has no family who can assist with childcare. She was willing to work Saturdays, and was willing to work from offices in different locations if necessary.

Following her request for a flexible work agreement (four set days per week in accordance with the availability of childcare), protracted negotiations ensued and she received conflicting information about what could be offered, how long it would be offered for and experienced difficulty in obtaining a formal agreement.

Personal information (her request for set days) was circulated to colleagues without her knowledge or consent and they were informed that the flexible working arrangement would be subject to their agreement. No other staff had their requests for flexible work circulated around the office.

Ms S was subsequently informed that the department could not agree to her request for a flexible working arrangement because another staff member “hasn’t warmed to the idea”.

The denial of set days left Ms S in a situation where she was expected to make herself available for up to nine hours per day six days per week, but with the department deciding which days and hours they would roster her for her hours. This means she would have to pay for child care for her children for six days per week

despite only using it for around four of the six days. In any event, she was unable to access the six days of child care.

When Ms S raised this issue, she was informed that she had been “approved” for six months leave without pay. She never requested leave without pay. Her manager then suggested she consider relinquishing her position. Her attendance record was also raised as an issue at this meeting.

More protracted “negotiations” ensued, with no resolution. Ms S endured a considerable amount of stress while attempting to juggle two young children and an unpredictable work roster.

She was given conflicting information and told that the ‘special shift’ arrangement could only be facilitated for a few months and that she would have to reapply upon expiry of the three months and that the approval would depend on the agreement of her colleagues to facilitate the arrangement.

Ms S had eight years service at this point and felt she had a lot to contribute to the workplace due to her experience.

Without a set roster, she was expected to avail herself for up to nine hours per day plus two Saturdays in four. This would mean paying childcare for all these days despite only being called for a total of 20 hours per week. She was prepared to set out 31 set hours over which they could call her for her 20 hours, to accommodate child care arrangements. She was also prepared to work every Saturday (as long as this was consistent) and to transfer to another office.

Responses to her requests for set rostering patterns had taken so long to be processed that by the time she received responses, enrolment dates for child care had closed. The child care centre at one point made clear they could not accommodate an “ever changing” roster and she had to book set days. When she communicated this problem to her employer, her employer suggested she use family members for child care.

When Ms S had to take time off to care for her child due to the problems between rostering and child care availability, she was cautioned about her attendance record.

In September 2004 Ms S wrote to the Human Resources Manager and summarised the events and reiterated her desire to work a set roster over three days to accommodate her child care needs.

In November 2004, Ms S again wrote to the Human Resources Manager, and to the Sector Manager, requesting a set roster and voicing concern over the lack of decision in relation to her previous requests.

Another letter was sent to the agency in January by the PSA, again requesting a meeting and a set roster. The agency subsequently offered the hours Ms S had

requested, but required her to work between two different offices and made clear that they would only offer this for a twelve month period. After twelve months, Ms S would be required to return to a 'flexible' roster, where she would be expected to work her 20 hours on any days the agency required her services, including Saturday's.

At the time, the agency had a Flexible Work Practices Policy which advocated flexible working arrangements.

The matter was listed by the PSA in the NSW Industrial Relations Commission for a compulsory conference in February 2005. A recommendation was made that the agency meet with Ms S and her representatives and negotiate hours and locations suitable to both parties.

Following the IRC conference, the agency wrote to the PSA. They asserted that they had made all reasonable attempts to accommodate her roster requests, however, they believed that the request would have a "significant impact on costs and an effect on the rostering of other staff".

An agreement was finally entered into in March 2005.

Some time later, Ms S became pregnant again.

Ms S returned to work and again attempted to enter into another part time agreement with set shifts. Similar difficulties ensued.

She was still breastfeeding when she returned to work. Ms S had no proper facilities and had to express milk in the toilets. Due to staff shortages, she was required to remain at the counter until a relief arrived. On one occasion she was leaking breast milk the counter of a government agency, as she was told she could not leave until a relief arrived for her to have a break. She was left with no alternative but to take six months leave without pay as the situation was untenable. She was pressured to relinquish her position when she requested the leave without pay.

When she returned to work, she was denied acting up and training opportunities on the basis that she was not flexible enough with her working hours and locations. This resulted in people with substantially less experience acting as her supervisors and receiving training. It was made clear to Ms S that she would need to be prepared to work any of six days in order to get acting up and training. As work could not be guaranteed on any of the days, this would have necessitated her paying more in child care than she earned in wages in order to be available at the departments convenience.

Following another period of parental leave for the birth of her third child in 2011, Ms S again requested a set roster. Her employer was again slow in responding to her request. A local day care was tentatively holding a booking for her while she awaited a response. The PSA made representation on behalf of the member. The Human

Resources Management section of her department then wrote to Ms S requesting “documentary evidence” of her situation, namely: a letter from the day care centre in relation to available days for child care and written evidence that she had “no family in Sydney available to assist with childcare” and that her partner was “unable to assist due to the nature of his employment”. The day care centre was reluctant to provide such a letter without a firm booking.

Ms S replied to the employer stating that she considered the request for documentary evidence a breach of her privacy. She also noted concern that the employer was demanding that she avail herself every Saturday – but only for a three hour shift, as this would necessitate paying for a full days child care for three children to enable her to work only three hours.

The Human Resources Manager again confirmed that the special shift pattern would not be approved without the requested supporting documentation.

To complicate matters, there was no permanent manager at her work location, so negotiations effectively went around in circles with no firm agreement. During negotiations, Ms S was contacted by the day care centre repeatedly because they had other families on the waiting list. During the protracted negotiations, the Saturday booking was taken by someone else, as Ms S was not able to confirm the arrangement without an agreement from her employer.

A meeting occurred in March 2012, where Ms S was queried on her reasons for choosing the particular day care centre, travel time to the day care centre, why it was not in the suburb she lived in and the times of operation of the day care centre. The managers also requested a copy of the day care centre’s operating manual. Information which was previously supplied was repeatedly requested by management. At this meeting, the managers involved stated that they wanted Ms S to work Saturdays (a day for which a place was no longer available due to the delay in reaching an agreement). It was also suggested that she move to another work location, one which would necessitate considerably more travel. Ms S was repeatedly asked why she could not use family to care for her children. She was also quizzed on why she could not organise some kind of casual care if she were required to work late at a moments’ notice. It was requested that Ms S confirm all of this in writing before the department would sign off on the agreement. Ms S was reminded that there would be “no developmental opportunities available while on a special shift pattern”, and that staff need to “be available any time of day”. When Ms S stated she was unable to do that, the manager replied that he was under no obligation to give any developmental opportunities to staff who’s “attitude was not right”. It was stated that if she wanted a career “sacrifices have to be made”. It was also suggested that she put her (older) children on a school bus instead of dropping them off herself of a morning.

An argument ensued when one of the managers continued to press the point of using family for child care. The respective manager insisted he had the right to contact her family to ascertain whether they were available to assist with child care.

Ms S's partner accompanied her to this meeting. One of the managers addressed him directly and asked him what hours he worked, what days he worked, and why he had to work Saturdays. A letter from the day care centre was again insisted on.

Ms S lodged a written complaint with the department in relation to the conduct of the two managers involved in this negotiation. She received a response which fundamentally supported their conduct and lines of questioning at the meeting.

Around this time, the employer contacted the day care centre, without Ms S's knowledge or consent, to confirm the availability of places. They then took the liberty of sourcing another provider and informing her that a "place has been found" and insisted she utilise a carer whom she did not know for her children.

Her manager also suggested she consider working less hours overall so that her special shift pattern could be accommodated without any inconvenience to the agency or other staff. Protracted negotiations again ensued over some months, with management repeatedly requesting documentation Ms S had already provided, and then stating they could not make a decision until they had "statistics" about the workplace. During this time the available days for day care again changed, as Ms S could not commit to certain days without the sign off from her manager on the special shift arrangement.

Ms S subsequently extended her (unpaid) parental leave until January 2013 as there appeared to be no other way she could meet her carer commitments. This caused her and her family financial hardship. It also deprived the agency of the skills of an experienced employee.

In August 2012 the PSA contacted the departments HR section and an agreement suitable to both parties was entered into. This was agreed to for a twelve month period only.

Around this time, Ms S submitted a complaint of bullying in relation to the way she had been treated by management in the negotiation process and the difficulty in negotiations. The outcome was that the department wrote to Ms S stating that there was insufficient evidence to substantiate the allegation and declined to take any action in relation to the matter.

Ms S began experiencing difficulty sleeping and severe stress. She contacted the PSA.

A GIPPA application was submitted to obtain copies of all records of the investigation. The PSA also informed Ms S that she could submit a complaint to the

Anti Discrimination Board in relation to the way she had been treated when trying to obtain a roster to accommodate her carer responsibilities.

On the basis of the information received via the GIPPA application, Ms S asserted that all managers involved had colluded and supported each other in the investigation and that their version of events were different from what had actually occurred.

6 Recommendations

1 The PSA would support a recommendation that a time limit be implemented for employers to respond to an employees' request for a flexible work arrangement.

There is currently no express time limit that an employer has to comply with when responding to an employees' request for flexible work arrangements. This frequently leads to a situation where a woman requests a certain roster or work pattern that will fit with the availability of child care, but the time the employer takes to respond to the request is so lengthy that the available days fall through or change in the interim. The employee is then in a position where they must lodge subsequent applications for flexible work with different days or times and endure the whole process again.

Accordingly, the PSA would support a recommended that, following a written request from an employee to work part time or a request for a flexible working arrangement, the employer must reply within 14 days.

2 The PSA would support a recommendation that responses to employee's requests for flexible work need to be given in writing.

At present, members frequently state that responses are only given verbally. This creates the potential for misunderstandings to occur and can result in frustration.

3 The PSA would support a recommendation that where employers decline a request for part time or flexible work, that a proper reason be given.

Members often report that, where a written response is given, employers are merely ticking "declined" and writing "operational needs" as the reason. A sound reason which clearly describes the nature of such demands and why it is not possible to work around them should be given where a request is declined.

The problem at present is that it is essentially very difficult for most carers to access part time or flexible work and very easy for an employer to refuse this without adequate justification. Under the present system, it would appear that the 'course of least resistance' is for the employer to refuse, as little more needs to be done on their part. This leaves many women in situations where they are not in reality "requesting" flexible work or part time work, but begging. If supporting requests for

flexible work or part time work were the course of least resistance for employers, they may be more inclined to support the requests.

4 Preferred rostering

All employees working on rosters should have access to preferred rostering arrangements. Where possible, these should be computerised to allow employees convenience to enter their preferred shifts.

Where it is possible to accommodate requests, this should be best practice.

5 Teleworking and working remotely

While not all employees will obviously be able to work remotely, it would appear that this is one area where perceptions have failed to keep pace with technological innovation.

The PSA would support any recommendation encouraging employers to consider the feasibility of teleworking and working remotely where employees request this.

As with other applications (for part time or flexible work), an employer should be required to reply in writing within 14 days, outlining the reasons why this is not possible if applications are declined.

The benefits of accommodating working remotely, as with other types of flexible work to the employer include: increased loyalty; potential savings on infrastructure and utility costs; savings on recruitment and training if employees are able to remain with the employer due to the ability to access flexible working conditions; reduced sick leave; reduced carers leave.

These benefits would be potentially applicable to all forms of flexible working arrangements, but would be especially applicable to working remotely.